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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] Office: TEXAS SERVICE CENTER Date: MAY 11 2009
SRC 07 221 50825

IN RE: Petitioner:
Beneficiary: [redacted]

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

[redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of $585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Grissom
Acting Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will dismiss the appeal.

The petitioner seeks classification pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), as a member of the professions holding an advanced degree. The petitioner is a hematology/oncology fellow at the Mayo Clinic, Rochester, Minnesota. The petitioner asserts that an exemption from the requirement of a job offer, and thus of a labor certification, is in the national interest of the United States. The director found that the petitioner qualifies for classification as a member of the professions holding an advanced degree, but that the petitioner has not established that an exemption from the requirement of a job offer would be in the national interest of the United States.

On appeal, the petitioner submits arguments from counsel.

Section 203(b) of the Act states, in pertinent part:

> (2) Aliens Who Are Members of the Professions Holding Advanced Degrees or Aliens of Exceptional Ability. --
>
> > (A) In General. -- Visas shall be made available . . . to qualified immigrants who are members of the professions holding advanced degrees or their equivalent or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.
> >
> > (B) Waiver of Job Offer.
> >
> > > (i) . . . the Attorney General may, when the Attorney General deems it to be in the national interest, waive the requirements of subparagraph (A) that an alien's services in the sciences, arts, professions, or business be sought by an employer in the United States.

The director did not dispute that the petitioner qualifies as a member of the professions holding an advanced degree. The sole issue in contention is whether the petitioner has established that a waiver of the job offer requirement, and thus a labor certification, is in the national interest.

Neither the statute nor the pertinent regulations define the term "national interest." Additionally, Congress did not provide a specific definition of "in the national interest." The Committee on the Judiciary merely noted in its report to the Senate that the committee had "focused on national interest by increasing the number and proportion of visas for immigrants who would benefit the United States economically and otherwise. . . ." S. Rep. No. 55, 101st Cong., 1st Sess., 11 (1989).

Supplementary information to regulations implementing the Immigration Act of 1990 (IMMACT), published at 56 Fed. Reg. 60897, 60900 (November 29, 1991), states:

> The Service [now U.S. Citizenship and Immigration Services (USCIS)] believes it appropriate to leave the application of this test as flexible as possible, although clearly an alien seeking to meet the [national interest] standard must make a showing significantly above that necessary to prove the "prospective national benefit" [required of aliens seeking to qualify as "exceptional."] The burden will rest with the alien to establish that exemption from, or waiver of, the job offer will be in the national interest. Each case is to be judged on its own merits.

Matter of New York State Dept. of Transportation, 22 I&N Dec. 215 (Commr. 1998), has set forth several factors which must be considered when evaluating a request for a national interest waiver. First, it must be shown that the alien seeks employment in an area of substantial intrinsic merit. Next, it must be shown that the proposed benefit will be national in scope. Finally, the petitioner seeking the waiver must establish that the alien will serve the national interest to a substantially greater degree than would an available U.S. worker having the same minimum qualifications.

It must be noted that, while the national interest waiver hinges on prospective national benefit, it clearly must be established that the alien's past record justifies projections of future benefit to the national interest. The petitioner's subjective assurance that the alien will, in the future, serve the national interest cannot suffice to establish prospective national benefit. The inclusion of the term "prospective" is used here to require future contributions by the alien, rather than to facilitate the entry of an alien with no demonstrable prior achievements, and whose benefit to the national interest would thus be entirely speculative.

We also note that the regulation at 8 C.F.R. § 204.5(k)(2) defines "exceptional ability" as "a degree of expertise significantly above that ordinarily encountered" in a given area of endeavor. By statute, aliens of exceptional ability are generally subject to the job offer/labor certification requirement; they are not exempt by virtue of their exceptional ability. Therefore, whether a given alien seeks classification as an alien of exceptional ability, or as a member of the professions holding an advanced degree, that alien cannot qualify for a waiver just by demonstrating a degree of expertise significantly above that ordinarily encountered in his or her field of expertise.

We note that, according to U.S. Citizenship and Immigration Services (USCIS) records, the petitioner simultaneously filed two Form I-140 petitions. One, with receipt number SRC 07 221 50825, relates to the present proceeding in which the petitioner seeks classification as a member of the professions holding an advanced degree, as well as a national interest waiver. In the other petition, with receipt number SRC 07 221 54974, the petitioner sought classification as an alien of extraordinary ability in the sciences under section 203(b)(1)(A) of the Act. The petition was denied on June 5, 2008.

After the denial of the present petition in September 2008, the petitioner submitted one I-290B Notice of Appeal, with one fee. On the Form I-290B, counsel indicated that the appeal pertained to the petition

denied on September 15, 2008 with receipt number "SRC0722150825." Counsel's cover letter reads, in part:

> **Appeal of denied EB-1 extraordinary ability petition – SRC 07 221 50825**
>
> Dear District Director [*sic*],
>
> Please be advised that the above-named petitioner now wishes to timely appeal the decision to deny her I-140 for classification as an alien of extraordinary ability.

(Counsel's emphasis.) The accompanying brief begins with the heading: "**Appeal of denied national interest waiver EB2 petition – SRC 07 221 50825**" (counsel's emphasis). Thus, in the context of a single appeal, counsel has referred to the denials of both petitions. Because each petition initiates a separate, independent proceeding, a single Form I-290B, with one fee, cannot be used to appeal multiple decisions. USCIS is statutorily prohibited from providing a petitioner with multiple adjudications for a single form with a single fee. Pursuant to section 286(m) of the Act, 8 U.S.C. § 1356, USCIS is required to recover the full cost of adjudication. In addition to the statutory requirement, Office of Management and Budget (OMB) Circular A-25 requires that USCIS recover all direct and indirect costs of providing a good, resource, or service.[1] Therefore, we cannot consider this filing to represent a properly filed appeal to both denials.

Because the appeal consistently shows receipt number SRC 07 221 50825, the AAO considers the appeal to pertain to that petition, and not to the separate "extraordinary ability" petition filed with receipt number SRC 07 221 54974. USCIS records do not reflect the petitioner's filing of a second Form I-290B. Therefore, we conclude that the petitioner has not appealed the denial of her "extraordinary ability" petition, and we will limit consideration here to her "national interest waiver" petition.

In arguments accompanying the initial submission, counsel stated:

> Many of the groundbreaking research studies conducted by [the petitioner] have influenced physicians beyond her geographic situation. . . . [The petitioner] has conducted several cutting edge and highly influential clinical and scientific research studies that have garnered her much success and acclaim through subsequent publication in the world's most prestigious journals and presentations given before other leading senior and junior experts in Hematology and Oncology. . . .
>
> Much of [the petitioner's] clinical and scientific research has earned widespread acclaim through publication in several leading journals. Most notable is the fact that [the petitioner] has authored significant original studies in some of the most often cited and highest impact factored journals in the field of cancer research. . . . [One of the

[1] *See* http://www.whitehouse.gov/omb/circulars/a025/a025.html.

> petitioner's articles] has been accepted for publication in the Journal of Clinical Oncology. This peer-reviewed journal not only boasts an impact factor of 11.810 making it the #1 international journal in clinical oncology, but it is also the most cited peer-reviewed publication in the field with a circulation of 16,100. The simple fact that [the petitioner's] studies have been accepted for publication in this venerable journal is indicative of her unique status in our medical community. . . .
>
> [The petitioner's] extraordinary ability is evidenced through her published study entitled, "Prevalence of moderate or severe left ventricular diastolic dysfunction in persons with suspected myocardial ischemia with and without an abnormal adenosine or exercise sestamibi stress test or prior coronary revascularization." This groundbreaking work in the field of pulmonology has been cited in leading national and international journals by other experts in the field who have used [the petitioner's] results in their own research. The significance of [the petitioner's] work is also measured by the fact that the above manuscript was published in the premier journal Chest. This peer-reviewed journal is considered "the" authoritative source for the most advanced research in clinical chest medicine by physicians and researchers from around the world. . . .

Counsel also stated that another of the petitioner's articles "was published in the premier journal Chest" and "has been cited . . . by other experts in the field." (This same passage, identically worded, appears in a witness letter and will be discussed further in that context.) Counsel is clearly aware of the value of citation of published articles, noting that the *Journal of Clinical Oncology* is "the most cited peer-reviewed publication in the field." The impact factor of the journal is calculated from the average citation rate of articles in that journal. It does not follow that any one article in the journal has comparable impact. A journal's impact factor does not establish the reception of a given article; it is exactly the reverse. Highly-cited articles raise a journal's impact factor, while articles with few or no citations lower it. Here, the petitioner's article had not yet been published as of the filing date. A visa petition may not be approved based on speculation of future eligibility or after the petitioner becomes eligible under a new set of facts. *See Matter of Katigbak*, 14 I&N Dec. 45, 49 (Comm. 1971). A petitioner may not make material changes to a petition in an effort to make a deficient petition conform to CIS requirements. *See Matter of Izummi*, 22 I&N Dec. 169, 176 (Assoc. Comm. 1998). Counsel stated only that one of the petitioner's articles "has been accepted for publication in the Journal of Clinical Oncology." It is obviously premature to discuss the impact of a still-unpublished article.

For all the discussion of the petitioner's published work, the petitioner's initial submission did not include copies of her published articles, or even documentary proof that they were, in fact, published. **The unsupported assertions of counsel do not constitute evidence.** *See Matter of Obaigbena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1, 3 n.2 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). The section of the petitioner's initial submission marked "Publications and Presentations" consists only of printouts from electronic slide presentations.

Counsel stated: "There is already an existing shortage for Hematologists-Oncologists and the prospect of a near future resolution is very grim." A shortage of qualified workers in a given field, regardless of the nature of the occupation, does not constitute grounds for a national interest waiver. Given that the labor certification process was designed to address the issue of worker shortages, a shortage of qualified workers is an argument for obtaining rather than waiving a labor certification. *See Matter of New York State Dept. of Transportation* at 215, 218.

There exists a statutory provision at section 203(b)(2)(B)(ii) of the Act for certain physicians when the Department of Health and Human Services has officially designated a shortage area, but the petitioner has made no attempt to follow the provisions set forth in that subsection of the Act, or to conform to the corresponding regulatory requirements at 8 C.F.R. § 204.12.

Five witness letters accompanied the petitioner's initial submission. [redacted] President of the New York Chapter of the American College of Physicians and Chief of General Internal Medicine at Westchester Medical Center, Valhalla, New York (affiliated with New York Medical College), stated:

> I was the Residency Training director for Internal Medicine for all of [the petitioner's] training, so I know the candidate extremely well. . . .
>
> A review of [the petitioner's] original and significant research publications and presentations serves as an indicator of her extraordinary ability as a physician as well as how her works have contributed greatly to her field of medicine as a whole. . . . As a foremost physician, [the petitioner] has utilized her unique clinical background in the fields of Internal medicine, Hematology and Oncology to conduct cutting-edge studies that have lead [*sic*] to groundbreaking advances and improvements in the field.
>
> **One such study is [the petitioner's] breakthrough research that significantly contributed to the advancing field of colorectal cancer** by studying whether bevacizumab should be continued beyond its progression. . . . In demonstrating clearly for the first time the proper amounts of the drug that should be administered and in showing that previously the drug has been administered in excessive amounts, this novel work will no doubt save at the very least tens of millions of dollars to the healthcare system. . . .
>
> **This extremely significant first of its kind study has been accepted for publication in the Journal of Clinical Oncology**. . . .
>
> [The petitioner's] extraordinary ability is evidenced through her published study entitled, "*Prevalence of moderate or severe left ventricular diastolic dysfunction in persons with suspected myocardial ischemia with and without an abnormal adenosine or exercise sestamibi stress test or prior coronary revascularization.*" This groundbreaking work in the field of pulmonology has **been cited in leading national and international**

> **journals by other experts in the field who have used [the petitioner's] results in their own research**. The significance of [the petitioner's] work is also measured by the fact that the above manuscript was published in the premier journal *Chest*. This **peer-reviewed journal is considered "the" authoritative source for the most advanced research in clinical chest medicine by physicians and researchers from around the world**. . . .
>
> [The petitioner's] extraordinary research acumen, and numerous appointments as a speaker and teacher, as well as her publications in the world[']s most prestigious journals and numerous invitations to present her groundbreaking cases and studies establishes her as a hematologist and oncologist of extraordinary ability. Her expertise is widely recognized and is depended upon by leaders in the medical community.

(Emphasis in original.) The passage regarding the petitioner's claimed article in *Chest* is identical to a passage from counsel's opening letter, apart from the various emphases in [redacted] letter. As noted previously, the petitioner's initial submission did not include a copy of the above articles, or documentation showing their publication in, respectively, the *Journal of Clinical Oncology* or *Chest*. The petitioner also submitted no evidence to support the assertion that her claimed *Chest* article "has been cited . . . by other experts in the field." Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Commr. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Regl. Commr. 1972)).

[redacted], Deputy Program Director of the Internal Medicine Residency Training Program at Westchester Medical Center, stated that the petitioner "has garnered an impressive reputation throughout the medical community," and that her findings regarding the correct dosage regimen of bevacizumab "**is an incredible accomplishment that has not been matched by anyone in the field of colorectal cancer**" (emphasis in original). He added that the petitioner "has the critical role of reviewing the performance of junior and senior housestaff in the department of medicine. . . . She also teaches the housestaff in insertion of central catheters, paracentesis and bone marrow biopsies." [redacted] did not explain why these duties are hallmarks of "international acclaim" rather than routine teaching duties.

[redacted], Director of Medicine at Westchester Medical Center, stated that the petitioner "**is an extraordinary physician scientist whose expertise in hematology/oncology combines with a multitude of her other specialized clinical and scientific procedures to allow her to collectively surpass 99% of those in her field**" (emphasis in original). [redacted] stated that the petitioner has succeeded in making difficult diagnoses that other physicians could not make, and "**is also one of the countries** [*sic*] **foremost experts in treatment and dosage of bevacizumab in metastatic colorectal cancer**" (emphasis in original).

[redacted], Assistant Professor at the Mayo Clinic, stated:

> [The petitioner] has been hard at work in attaining an extraordinary high degree of expertise in the fields of hematology and oncology. . . . She is part of a small minority of oncologists and hematologists who strive to achieve an extraordinary level of expertise in her clinical and diagnostic abilities. Only the top physicians choose to specialize in hematology and oncology, as the specialty is one of the most complex and difficult in all of medicine. Among this elite group of hematologists and oncologists, [the petitioner] is one of the best.

[redacted] stated that the petitioner "is also an extraordinary medical researcher in finding new cancer therapies," but she did not elaborate by identifying any specific contribution or accomplishment by the petitioner. cited no evidence or source to support the claim that the petitioner's choice of medical specialties is, itself, evidence of her superiority in the field.

[redacted] Fellowship Program Director of Hematology/Oncology at the Mayo Clinic, discussed the petitioner's medical specialty and warns of a "critical shortage" of such specialists, but provided little information specific to the petitioner except that her "research in high dose mitoxantrone in AML and bevacizumab in treatment of colorectal carcinoma is a unique distinction that places her in an elite class of hematology-oncologists in the United States." Regarding the petitioner's findings relating to bevacizumab dosage, [redacted] did not indicate that these findings were so influential that they have been widely implemented throughout the field of medicine. Rather, he stated that "**only a handful of services in the United States offer this mode of investigation of dosage** (emphasis in original)," and that trials will take place at some unspecified point in the future. This seems to imply that what has been praised as the petitioner's crowning achievement is still being tested for efficacy.

Many of the initial witness letters share a heavy use bold and underline type to emphasize certain passages, as well as hyperbolic praise for the petitioner's achievements coupled with minimal details about what those achievements actually entailed. While the witnesses maintain that the petitioner has quickly climbed to the pinnacle of her specialty, and thereby earned "international acclaim," all of the witnesses are the petitioner's superiors at entities where she has worked and received ongoing training.

On December 17, 2007, the director issued a request for evidence, which read, in part:

> Please submit documentary evidence of the exact influence the beneficiary's work has had on his [*sic*] specialty or on the field in general. If the beneficiary's research results have been cited by others in this field, submit copies of all published works of authors who cite the petitioner's work, or other evidence, such as copies of citation indices, showing numbers of citations. Specifically, evidence regarding the beneficiary's publications is missing from the initial submission. . . .
>
> Please describe specifically all of this petitioner's exact prior achievements and how these have influenced his [*sic*] field. . . . [A]ll of the reference letters submitted as initial evidence appear to have some type of prior association with the beneficiary. How have

> experts or researchers in the field no[t] associated with the beneficiary used the research of the beneficiary in their own research and studies?

In response to the notice, with regard to the specific request for "evidence regarding the beneficiary's publications," counsel stated: "Please see [the petitioner's] resume and attached letter from the Specialty Clinic documenting that she has published in several top journals including the Journal of clinical oncology and the Journal of the American medical Association [*sic*]." The petitioner did not explain why she did not provide copies of the actual articles, nor did she demonstrate that "the Specialty Clinic" has the authority to attest to the petitioner's publication of articles in the aforementioned journals.

In response to the director's instruction to "submit copies of all published works of authors who cite the petitioner's work," the petitioner submitted a copy of one article, which appeared in *Leukemia and Lymphoma* in 2005. The authors were researchers at New York Medical College, which operates Westchester Medical Center. Five of the citing authors were also the petitioner's co-authors of the cited article, meaning that this is a self-citation. The cited article, meanwhile, was said to be "in press" at an unidentified journal. The title of the cited article does not match either of the two articles so emphatically stressed in the initial submission.

The petitioner also submitted a copy of an electronic mail message from [redacted] to [redacted], which names the above article, as well as a second article. The message provides the title of the article and the name of its author (yet another researcher at New York Medical College), but not the name of the publication in which the article appeared. The message contains no indication that this article contains a citation of the petitioner's work. The petitioner did not explain why she did not submit the article itself, as instructed.

The petitioner also submitted new witness letters. Although the director had indicated a strong preference for letters from independent witnesses, all but one of the new letters are from Mayo Clinic faculty members. Counsel justifies this by noting that the Mayo Clinic is a widely acclaimed medical institution. While the Mayo Clinic is a very highly regarded institution, this does not mean that the Mayo Clinic's faculty can speak on behalf of the wider medical profession. It remains that the petitioner had initially claimed "international acclaim" in her field, which by definition means that she ought to be well known outside of the Mayo Clinic where she was a first-year fellow at the time. It is highly significant that, when asked to support these claims of international recognition, the petitioner instead resorted to irrelevant assertions about her employer's reputation.

The new letters are broadly similar to the initial letters, discussing the same accomplishments noted in the first group of letters. [redacted], in his second letter, deemed the petitioner "an elite member of the field of hematology/oncology" whose "impact . . . has certainly been felt throughout the field on a national level."

[redacted] stated: "It goes without saying that her work at the Mayo Clinic has been of enormous importance. This is an opinion that is shared throughout our field." The petitioner has succeeded only

in showing that this opinion is shared throughout the Mayo Clinic, which, regardless of its reputation, cannot serve as a proxy for the entire medical profession.

[redacted] stated that the petitioner "has been involved in several research projects in . . . critically innovative research" but, once again, the research itself is not discussed in anything but the most general and superficial terms. [redacted] also indicated that the petitioner "is currently training" at the Mayo Clinic, which raises the question of how the petitioner can be simultaneously a widely acclaimed physician/researcher while, at the same time, still in the first year of "training" at the clinic.

[redacted] is identified as an Assistant Professor at the Mayo Clinic, although [redacted] letter is on the letterhead of Immanuel St. Joseph's Specialty Clinic in Mankato, Minnesota. Dr. [redacted]'s apparent ability to hold simultaneous positions at both institutions indicates the proximity of Mankato and Rochester. [redacted] letter appears to be the "letter from the Specialty Clinic" to which counsel referred. [redacted] stated that the petitioner "has sustained publications in several top journals," but did not claim to be on the editorial staff of any of those journals.

[redacted] letter is not documentation of the existence of the named articles; it is simply one more unsupported claim from a faculty member of the institution where the petitioner works. The petitioner has never explained why she is either unwilling or unable to directly document the publications themselves.

The only witness with no demonstrated connection to the Mayo Clinic is [redacted] of the Mankato Clinic. Mankato is about 85 miles west of Rochester, where the Mayo Clinic is located. Dr. [redacted] stated: "It is indeed very well known within our field that the work that [the petitioner] has performed has led to advancements in the burgeoning field." The very narrow range of witnesses is not, itself, evidence of the petitioner's broader reputation. If the petitioner is indeed widely known outside of Minnesota and the Mayo Clinic, then evidence to that effect ought to be available outside of Minnesota and the Mayo Clinic. Certainly, the witnesses themselves never explain how they know the extent of the petitioner's reputation; they simply declare it to be "well known."

In summary, in response to the director's observation that the witness letters lacked detail and originated mostly from the Mayo Clinic, the petitioner submitted more letters that lacked detail and originated mostly from the Mayo Clinic. The petitioner's response to the request for evidence therefore undermines rather than strengthens her claim of eligibility.

The director denied the petition on September 15, 2008, stating "there is no evidence of this great interest" claimed by the petitioner's witnesses, as well as "no evidence of [the petitioner's claimed] publications." The director noted that the petitioner had documented only one citation of her work.

On appeal, counsel states that the petitioner "has performed research that has had a national impact as is evidenced by her prolific record of publication and presentation." As the director has clearly and repeatedly pointed out, the record contains barely any evidence of the petitioner's "prolific record of publication and presentation." The petitioner has simply gotten her employers to assert that these

publications exist. One witness asserted that the petitioner published an article in *Chest* that was subsequently cited by other researchers. When the director instructed the petitioner to submit copies of the citing articles, however, the petitioner documented only one citation, which related to a different article. Failure to submit requested evidence which precludes a material line of inquiry shall be grounds for denying the application or petition. 8 C.F.R. § 103.2(b)(14). The record is utterly devoid of first-hand evidence that the *Chest* article even exists, much less that anyone else has cited the article.

Counsel asserts that the claimed shortage of physician/researchers in the petitioner's specialty "should be taken into consideration, by no means as a sole or perhaps even primary argument, but as an accentuating factor." The argument is not persuasive. A shortage implies reduced competition for a given position, meaning that the alien would be less likely to be displaced by a United States worker through the labor certification process. Even then, the assertion of a dire national shortage is supported, like so many of the petitioner's other claims, only by witness letters.

Counsel once again contends that the Mayo Clinic is "considered by many as the world's top medical institution." (We note that the petitioner herself, on her own résumé, refers to the Mayo Clinic as "the second best hospital in [the] USA.") It does not follow, however, that Mayo Clinic officials have the authority or standing to declare particular aliens eligible for immigration benefits. We have taken their statements into account, but the credibility of those statements suffers considerably from the letters' lack of detail, along with the petitioner's persistent failure to provide any kind of documentation to support most of the claims in those letters. Repetition of these vague and unsupported claims by more witnesses tends to make those claims less credible, not more credible, to the point where doubts begin to arise as to the authorship of those letters.

Doubt cast on any aspect of the petitioner's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988). Section 204(b) of the Act, 8 U.S.C. § 1154(b), provides for the approval of immigrant petitions only upon a determination that "the facts stated in the petition are true." False, contradictory, or unverifiable claims inherently prevent a finding that the petitioner's claims are true. *See Anetekhai v. I.N.S.*, 876 F.2d 1218, 1220 (5th Cir. 1989); *Systronics Corp. v. I.N.S.*, 153 F. Supp. 2d 7, 15 (D.D.C. 2001); *Lu-Ann Bakery Shop, Inc. v. Nelson*, 705 F. Supp. 7, 10 (D.D.C. 1988).

The remainder of counsel's arguments on appeal concern various regulatory criteria from 8 C.F.R. § 204.5(h)(3), pertaining to the petitioner's claim of extraordinary ability in the sciences. As previously noted, these claims relate to a separate petition and the AAO will not discuss them here.

As is clear from a plain reading of the statute, it was not the intent of Congress that every person qualified to engage in a profession in the United States should be exempt from the requirement of a job offer based on national interest. Likewise, it does not appear to have been the intent of Congress to grant national interest waivers on the basis of the overall importance of a given profession, rather than on the merits of the individual alien. On the basis of the evidence submitted, the petitioner has not

established that a waiver of the requirement of an approved labor certification will be in the national interest of the United States.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden. This denial is without prejudice to the filing of a new petition by a United States employer accompanied by a labor certification issued by the Department of Labor, appropriate supporting evidence and fee.

ORDER: The appeal is dismissed.